

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2009CF1972
)	EEOC NO.: 21BA90760
LINDA DANNER)	ALS NO.: 09-0542
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Sakhawat Hussain, M.D., Spencer Leak, Sr., and Rozanne Ronen, presiding, upon Linda Danner's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge No. 2009CF1972; and the Commission having reviewed *de novo* the Respondent's investigation file, including the Investigation Report and the Petitioner's Request and supporting materials, and the Respondent's response to the Petitioner's Request; and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following findings of fact and reasons:

1. On December 29, 2008, the Petitioner filed a charge of discrimination with the Respondent. The Petitioner alleged School District U-46 ("Employer") suspended her (Count A) and discharged her (Count B) because of her race, Black, in violation of Section 2-102(A) of the Illinois Human Rights Act (the "Act"). On August 25, 2009, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On September 25, 2009, the Petitioner filed this timely Request.
2. The Employer provides school bus service for students in grades pre-k through 12th grade. The Employer hired the Petitioner as a school bus driver on September 25, 2008. Pursuant to a Collective Bargaining Agreement ("CBA") between the Employer and the Board of Education, the Petitioner was a probationary employee for the first 120 days of employment. Under the CBA, probationary employees are not entitled to receive progressive discipline, which means probationary employees may be terminated for any reason and at any time during the probationary period.

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge who is requesting review of the Department's action shall be referred to as the "Petitioner."

3. On October 24, 2008, the Employer informed the Petitioner that it had received a complaint about her alleged conduct. A parent had complained that the Petitioner had grabbed a student ("Student A") by the shirt collar and removed Student A's identification tag from his neck.
4. On October 27, 2008, the Employer suspended the Petitioner with pay pending investigation into the parent's complaint.
5. The Employer interviewed three students who had witnessed the incident between the Petitioner and Student A. Two students stated the Petitioner had grabbed Student A's shirt collar, and the third student stated the Petitioner had grabbed Student A's identification tag.
6. At the conclusion of the investigation, the Employer determined the parent's complaint was substantiated.
7. On November 12, 2008, the Employer discharged the Petitioner.
8. The Petitioner contends in her charge and her Request that she was suspended and discharged because of her race. In her Request, the Petitioner denies that she grabbed Student A, and she contends the student witnesses lied about the incident. Finally, the Petitioner states a similarly situated non-Black school bus driver was treated more favorably under similar circumstances.

Conclusion

The Commission's review of the Respondent's investigation file leads it to conclude that the Respondent properly dismissed the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D).

First, there is no substantial evidence a similarly situated non-Black bus driver was treated more favorably than the Petitioner. The Petitioner's alleged comparable was suspended for two days after screaming at a student. However, the Petitioner and her alleged comparable are not similarly situated because there is no evidence the alleged comparable was accused of physically grabbing a student, and the alleged comparable was not a probationary employee. Hence, there is no substantial evidence in the file the Petitioner could establish a *prima facie* case of discrimination.

Second, assuming a *prima facie* case was proven, the Employer articulated a nondiscriminatory reason for suspending and discharging the Petitioner. There is no substantial evidence this stated reason was a pretext for discrimination. The evidence in the file shows the Employer took appropriate steps to investigate a parent's complaint against the Petitioner. The evidence shows the Employer discharged the Petitioner after the complaint was substantiated by three eye-witnesses. Notwithstanding the Petitioner's contention that the eye-witnesses lied, it is sufficient that there is evidence the Employer had a good faith and reasonable belief of the facts surrounding the incident. See Carlin v. Edsal Manufacturing Co., Charge No. 1992CN3428 ALA No. 7321 (May 6, 1996), citing to, Homes and Board of County Commissioners, Morgan County, 26 Ill. HRC Rep. 63 (1986).

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show the Respondent's dismissal of her charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and School District U-46 as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

)
)
)

Entered this 24th day of March 2010.

Commissioner Sakhawat Hussain, M.D.

Commissioner Spencer Leak, Sr.

Commissioner Rozanne Ronen